

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LATOYA NEWKIRK,

Plaintiff,

-against-

COUNTY OF SUFFOLK, CHRISTOPHER A.
MCCOY, in his official and individual capacities and
MARK PAV, in his official and individual capacities,

2:17-CV-02960(MKB)(PK)

**DECLARATION IN
OPPOSITION TO
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT**

Defendants.

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I, **BRIAN T. EGAN, ESQ.**, an attorney admitted to practice law before the Courts of the State of New York, hereby declare, under penalty of perjury, that the foregoing is true and correct:

1. I am a member of the firm of EGAN & GOLDEN, LLP, attorneys for Plaintiff, LATOYA NEWKIRK, and as such am fully familiar with the facts set forth herein. I submit this Declaration in opposition to the Motion for Summary Judgment filed by Defendants County of Suffolk and Mark Pav (the "County Defendants").

2. For the reasons set forth in Plaintiff's Memorandum of Law in Opposition, which is incorporated herein by reference, the County Defendants' Motion for Summary Judgment must be denied.

3. Annexed hereto in opposition to the County Defendants' Motion, are the following exhibits which are true and accurate copies of the original exhibits and evidence produced in discovery:

Exhibit 1 - The final report of the subject incident by the Internal Affairs Bureau (IAB) of the Suffolk County Police Department. The report was produced by the County Defendants in discovery.

- Exhibit 2 - The attachments/exhibits to the IAB Report.
- Exhibit 3 - The transcript of the deposition of Mark Pav taken on March 11, 2020.
- Exhibit 4 - Certificate of Disposition for the cases pursuant to which the subject warrants referenced in this case were issued against Ms. Newkirk.
- Exhibit 5 - The transcript of the deposition of Suffolk County Police Officer Delfina Rivera taken on March 11, 2020.
- Exhibit 6 - The FBI memoranda of twenty interviews conducted of persons involved or associated with the incident, including interviews of Ms. Newkirk and Defendants McCoy and Pav. The memoranda were produced by the Department of Justice.
- Exhibit 7 - The prisoner activity log for Plaintiff Latoya Newkirk for March 16, 2017. The log was produced in discovery by the County Defendants.
- Exhibit 8 - The Complaint filed in this matter.
- Exhibit 9 - A screenshot of text messages exchanged between Defendants Pav and McCoy on March 16, 2017. The County Defendants produced the screenshot in discovery.
- Exhibit 10 - Printout of the Automatic Vehicle Location for the police vehicle driven by Pav on March 16, 2017 from 1 p.m. to 4 p.m. The County Defendants produced the printout in discovery.
- Exhibit 11 - The Report of Police Procedure Expert Edmund Hartnett produced to the County Defendants pursuant to expert disclosure.
- Exhibit 12 - The transcript of the deposition of Suffolk County Police Sergeant Michael Bieber taken on March 16, 2020.
- Exhibit 13 - The criminal complaint filed in the United States v. McCoy (2:17-mj-00674; 18-CR-00530). The events described in the complaint are the subject of this action.

Exhibit 14 - Transcript of the October 9, 2018 guilty plea allocution of Defendant McCoy in the criminal proceeding. (18-CR-00530).

WHEREFORE, Plaintiff LATOYA NEWKIRK requests that the County Defendants' Motion for Summary Judgment be denied.

Dated: Patchogue, New York
March 19, 2021

EGAN & GOLDEN, LLP
Attorneys for Plaintiff

By: /s/ _____
Brian T. Egan, Esq.
96 South Ocean Avenue
Patchogue, New York 11772
631.447.8100
egan@egangolden.com